

December 18, 2001

Mr. Rick Moore
Air Quality Program Officer
Grand Canyon Trust
2601 North Fork Valley Road
Flagstaff, Arizona 86001

Dear Mr. Moore:

I am writing in response to your letter of March 12, 2001, in which you submitted comments on behalf of the Grand Canyon Trust (GCT) identifying a number of concerns about how the Arizona Department of Environmental Quality (ADEQ) is administering its title V program. As you noted in your letter, your comments were based on the review of the permit for the Cholla power plant, issued January 19, 2000. We have evaluated your comments on the Cholla permit and have enclosed our responses with this letter. In summary, we have determined that the Cholla permit is consistent with title V and is not symptomatic of program deficiencies. Our conclusions are more fully explained in the enclosed document.

In addition to your comments regarding the Cholla permit you noted that EPA had not commented on it at the conclusion of our review period. Please be aware that, unless we have specifically made a statement to the contrary, the lack of EPA comment on any particular permit should not be interpreted as an EPA finding that there is no cause for comment. Because of limited resources, we are unable to review every part 70 permit that is issued. We did not review this particular permit during our standard 45-day comment period.

Thank you for your interest and involvement in this process. We believe that one of the great contributions of the title V program is to facilitate public participation in the permitting process. We hope that you will continue to take part in the review of title V permits.

Sincerely,

/s/

Jack P. Broadbent, Director
Air Division

Enclosures

cc: Nancy Wrona, ADEQ

EPA Response to Comments Submitted by Grand Canyon Trust
Regarding Implementation of ADEQ's Title V program

1. GCT Comment: Cholla is required to undertake compliance tests because it is choosing not to use the COMS [continuous opacity monitoring system] for "compliance purposes." The permit then allows Cholla to fulfill that obligation by conducting one Method 9 test annually. Cholla has continuous monitors and the facility must look at the COMS data when determining whether it is in compliance, and it must submit reports to the State when the COMS show a violation of an applicable standard.

EPA Response: We agree with the commenter's assertion that sources must evaluate data from continuous emission or opacity monitors when determining compliance and must submit reports when the COMS shows a violation (or deviation) from an applicable standard. As explained below, we find that Cholla's permit is consistent with these requirements.

Certifications. In the preamble to the Federal Register notice that finalized EPA's credible evidence revisions, EPA discussed the use of credible evidence in compliance certifications:

"... if a source becomes aware of other material information that indicates that an emission unit has experienced deviations ... or may otherwise be out of compliance with an applicable requirement even though the unit's permit identified data indicates compliance, the source must consider this information, identify and address it in the compliance certification, and certify accordingly. This ensures, among other things, that sources will not certify compliance in circumstances where doing so would constitute a violation of CAA section 113(c) and 18 U.S.C. 1001, which prohibits a source from knowingly making a false certification or omitting material information, or a violation of other prohibitions on fraud. EPA emphasizes, however, that its purpose here is to make clear that sources may not ignore obvious relevant information.

See 62 FR 8319, February 24, 1997.

The Cholla permit requires *both* an annual method 9 test *and* the continuous operation of a COMS for each of the four steam boiler units 1, 2, 3 and 4 to determine compliance with applicable opacity limits in conditions II.A.1, III.A.1, V.A.1 and VI.A.1 of Attachment "B," respectively. See conditions II.D.1 and II.C.1.a. and II.C.1.d.(2)(c), which include opacity testing and monitoring requirements for steam boiler unit 1, and analogous conditions that apply to the other three steam boiler units (sections III, V, and VI of the permit). The permit does not contain conditions that allow the permittee to disregard data generated by COMS or that indicate method 9 is the exclusive means for determining compliance with these limits. Cholla is therefore required to look at the COMS data, which qualifies as "obvious relevant information," when determining its

compliance status with respect to the above cited opacity limits. If the data indicate that the unit has exceeded the opacity limit, Cholla must include that information in its compliance certification.

Reporting. The permit has two sets of reporting requirements. These conditions require that Cholla must report COMS data that indicate the source has exceeded an opacity limit. The first set of reporting requirements, found in Attachment A, Section XI of Cholla's permit, set out the general requirements for reporting of excess emissions and permit deviations that apply to the facility. Telephone or facsimile reports of excess emissions are required by condition XI.A, Excess Emissions Reporting, within 24 hours of occurrence and detailed written notification must be submitted within 72 hours. Condition XI.B of Attachment A, Permit Deviations Reporting, requires that permit deviations (which are defined as failure to meet a permit term or condition and are not necessarily violations), must be reported to the Director by certified mail, facsimile, or hand delivery within two days of the time the permittee learns of the deviation. Failure to report exceedences of the opacity standard as indicated by COMS data would be a violation of these permit conditions.

In addition to the reporting requirements described above, Attachment B, condition II.C.1.e. requires that the facility must: 1) report emissions exceeding an emission limitation or standard as deviations in accordance with condition XI. B. of Attachment A, i.e., by certified mail, facsimile, or hand delivery within 2 days of the time the permittee learns of the deviation; and 2) record and submit to ADEQ on a quarterly basis any excess emissions detected by the COMS and CEMS from each of the 4 steam boiler units. These reporting requirements are in addition to the semi-annual compliance certification reports outlined in condition VII of Attachment "A." Analogous conditions apply to each of the other steam boiler units. See sections III, V, and VI of the permit. COMS data showing an exceedence of the opacity limit must be reported under both of these provisions.

ADEQ has provided EPA with their interpretation of the compliance certification and record keeping requirements with respect to the opacity standards in the Cholla Permit (see enclosed letters from Nancy Wrona dated November 21, 2001 and December 13, 2001). We have found ADEQ's interpretation to be consistent with our own.

2. GCT comment: EPA has issued guidance that startup and shutdown "should be accounted for in the planning, design, and implementation of operating procedures for the process and control equipment" and that any exceptions should be "narrowly-tailored" and that "control strategy for this source category must be technically infeasible during start up and shutdown". Yet even though control technologies exist to control emissions during startup and shutdown, ADEQ offers a blanket exemption for them.

In Section XVII, "Performance Testing Requirements," the permit states:

Performance tests shall be conducted during operation at the maximum possible

capacity of each unit under representative operational conditions unless other conditions are required by the applicable test method or in this permit... Operations during startup, shutdown and malfunction shall not constitute representative operational conditions unless otherwise specified in the applicable standard.

This effectively exempts startup and shutdown from any performance tests for "determining compliance with an applicable standard".

EPA response: ADEQ permits contain a general condition that requires performance tests to be conducted under representative operational conditions, which are defined to exclude startup, shutdown and malfunction (SSM). This is a standard approach to performance testing, and is in fact what EPA requires in its NSPS general provisions and is a part of ADEQ's approved state implementation plan. (See 40 CFR 60.8(c) and R9-3-312, which is enclosed.) This provision ensures that source tests are not conducted while a unit is operating in a mode that is not representative of typical operations. EPA does not consider continuous monitors to be performance tests and the permit requires operation of the COMS while each steam boiler unit is in use, including during periods of non-representative operation.

While Cholla's permit does require that performance tests occur during representative operational conditions, it does not excuse or allow violations of permit limits that apply during non-representative operating conditions nor does it exclude the use of other credible evidence for determining compliance with emissions limitations during non-representative periods of operation.

Furthermore, Title V does not impose controls; rather, controls are required under applicable requirements, if any, such as NSR or an NSPS. In this case, the applicable requirement, NSPS Subpart D, does not specifically require additional controls during SSM. However, conditions III.B.2.a, b and c, V.B.2.a, b and c, VI.B.2.a, b and c of Attachment B do contain operational requirements for the existing control devices during periods of SSM to ensure that the permittee satisfies the requirement in 40 CFR 60.11(d) to "at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate the affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions."

3. GCT comment: Cholla has scrubbers on Units #1, #2, and #4. Both Units #1 and #2 have sulfur dioxide removal efficiency standards (80 % and 90 %, respectively), but no such standard is included for Unit #4, the largest unit at the facility.

EPA response: According to ADEQ (see enclosed letter from Prabhat Bhargava dated August 31, 2001), the SO₂ removal efficiency requirements on Units 1 and 2 were imposed as part of a settlement of an enforcement action brought against the source. Conditions II.A.3.b and III.A.3.b of Attachment B cite the origin and authority for the

SO₂ removal efficiency requirements for each of these units as originating in the respective installation and PSD permits for Units 1 and 2. Unit 4, however, is grandfathered from PSD, and is subject only to NSPS subpart D and a 0.8 lb SO₂/MMBtu limit derived from A.A.C. R18-2-903.1 (as cited in Condition VI.A.3. of Attachment "B"). It was not part of the enforcement action and is not subject to a SO₂ removal efficiency requirement.